



PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20554

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Released: October 5, 2023

DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF PAY TEL COMMUNICATIONS, INC. TO PAY TEL COMMUNICATIONS ESOP TRUST

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 23-321

Comments Due: October 19, 2023
Reply Comment Due: October 26, 2023

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Pay Tel Communications, Inc. (Pay Tel), John Vincent Townsend, III (Townsend), the J. Vincent Townsend III Family Dynasty Trust (Family Dynasty Trust), and the Pay Tel Communications ESOP Trust (Pay Tel ESOP Trust) (together, Applicants), pursuant to section 214(a) of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules,¹ requesting consent to transfer control of Pay Tel from Townsend and Family Dynasty Trust to Pay Tel ESOP Trust.²

Pay Tel, a North Carolina corporation, provides incarcerated people's communications services (IPCS) to correctional facilities, incarcerated people, and their families. Applicants state that, currently, Pay Tel provides IPCS through contracts with City and county jails in Alabama, Arizona (Navajo Nation), Florida, Georgia, Illinois, Maryland, Missouri, Montana, New Mexico, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Utah, Virginia, and Washington. Townsend, a U.S. citizen, holds 100% of the voting interest in Pay Tel and 20% of the company's equity interest. The remaining 80% of Pay Tel's equity interest is owned by the Family Dynasty Trust, a trust established under the laws of North Carolina. The Family Dynasty Trust is controlled by trustees Rebecca Holley Townsend and William Moser, both U.S. citizens. Neither Townsend, the Family Dynasty Trust, nor the Family Dynasty Trust's trustees have any affiliation with any IPCS or telecommunications service provider other than Pay Tel.

¹ See 47 U.S.C. § 214(a); 47 CFR §§ 63.03-04.

² Domestic Section 214 Application Filed for the Transfer of Control of Pay Tel Communications, Inc. to Pay Tel Communications ESOP Trust, WC Docket No. 23-321 (filed Sept. 22, 2023) (Application). Applicants also filed an application for the transfer of authorizations associated with international services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

According to Applicants, the Pay Tel ESOP Trust will be the legal entity through which the Pay Tel Communications ESOP (Pay Tel ESOP) will implement the ownership and control of Pay Tel.³ Post transaction, the Pay Tel ESOP will be beneficially owned by the eligible employees of Pay Tel as participants in the Pay Tel ESOP. Pay Tel ESOP will be administered by David A. Shoquist (Trustee), a United States citizen, who will serve as trustee of Pay Tel ESOP Trust pursuant to the terms of the Pay Tel ESOP.⁴

Pursuant to the terms of the stock purchase agreement with Townsend and the Family Dynasty Trust, Pay Tel ESOP Trust will purchase all of the voting and equity shares of Pay Tel. Upon consummation of the proposed Transaction, the Pay Tel ESOP Trust will own all of the voting and equity share of Pay Tel. The Applicants seek approval of the transfer of control of Pay Tel as part of an internal reorganization pursuant to which ownership of the company will be transferred to the company's employees under an Employee Stock Ownership Plan (ESOP). Applicants state that the proposed transaction "will not result in any interruption, reduction, loss, impairment, or disruption of services."⁵

Applicants request streamlined treatment of the proposed transaction under the Commission's rules and assert that a grant of the application would serve the public interest, convenience, and necessity. We accept the application for filing under section 63.03(b)(1)(ii) of the Commission's rules.⁶

³ Applicants state that the Pay Tel ESOP Trust is a tax-exempt trust under section 501(a) of the Internal Revenue Code (the Code). Application at 4 (citing 26 U.S.C. § 501(a)). Applicants further state that Pay Tel ESOP is a "qualified employee benefit plan under Section 401(a) of the Code and an employee stock ownership plan within the meaning of Section 4975(e)(7) of the Code and Section 407(d)(6) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")." *Id.* (citing 29 U.S.C. Chapter 18)). Applicants maintain that Pay Tel ESOP will be operated in compliance with applicable provisions of the Code and ERISA. *Id.*

⁴ The Trustee generally will not be involved in the day-to-day operations and strategic direction of Pay Tel, responsibility for which will remain with the company's board of directors and management team. However, the Trustee directs the voting of the Pay Tel ESOP's shares to select the board of directors, and the board of directors exercises oversight of the company's management. The Trustee also is responsible to monitor the board and management team to ensure they use a duty of care and act in the interests of the Pay Tel ESOP. *Id.* at 5 n.9.

⁵ *Id.* at 6.

⁶ 47 CFR § 63.03(b)(1)(ii). The Commission has acknowledged that the inmate calling services market is different from other telecommunications marketplaces. *See Applications Granted for the Transfer of Control of CenturyLink Public Communications, Inc. to Inmate Calling Solutions, LLC d/b/a ICSolutions*, WC Docket No. 20-150, 35 FCC Rcd 8661, 8663 (WCB/IB 2020) (citing *Rates for Interstate Calling Services*, WC Docket 12-375, Report and Order on Remand and Fourth Further Notice of Proposed Rulemaking, 35 FCC Rcd 8485, 8486-87, para. 5 (2020); *Rates for Interstate Calling Services*, WC Docket 12-375, Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking, 36 FCC Rcd 9519, 9531-33, paras. 31-32 (2021) (stating that the record in these proceedings reaffirms that incarcerated people have no choice in the selection of their calling services provider)). In light of this difference, the Bureau has accepted applications to transfer control of inmate calling providers for non-streamlined processing under section 63.03 of the Commission's rules, 47 CFR § 63.03, so that the Commission could consider competitive issues associated with the consolidation or elimination of industry providers resulting from the transactions, including the impact the transaction could have on the ability of incarcerated individuals to communicate with their families and other loved ones at just and reasonable rates and charges. *See, e.g., Applications Filed for the Acquisition of Certain Assets of Legacy Long Distance International, Inc. d/b/a Legacy Inmate Communications by Global Tel*Link Corporation*, WC Docket No. 20-218, Public Notice, 35 FCC Rcd 9940, 9944, Attach. A (WCB/IB 2020) (accepting for non-streamlined processing a section 214 application for an inmate calling provider to acquire assets and customers from a competing provider); *Application Filed for the Transfer of Control of CenturyLink*

Domestic Section 214 Application Filed for the Transfer of Control of
Pay Tel Communications, Inc. to Pay Tel Communications ESOP Trust,
WC Docket No. 23-321 (filed Sept.22, 2023).

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 63.03(a) of the Commission's rules, 47 CFR § 63.03(a), interested parties may file comments **on or before October 19, 2023**, and reply comments **on or before October 26, 2023**. Pursuant to section 63.52 of the Commission's rules, 47 CFR § 63.52, commenters must serve a copy of comments on the Applicants no later than the above comment filing date. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.

Pursuant to section 63.03 of the Commission's rules, 47 CFR § 63.03, parties to this proceeding should file any documents using the Commission's Electronic Comment Filing System (ECFS): <http://apps.fcc.gov/ecfs/>.

In addition, e-mail one copy of each pleading to each of the following:

- 1) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
- 2) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, dennis.johnson@fcc.gov;
- 3) David Krech, Office of Internal Affairs, david.krech@fcc.gov; and
- 4) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

The proceeding in this Notice shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two

Public Communications, Inc. to Inmate Calling Solutions, LLC d/b/a ICSolutions, WC Docket No. 20-150, Public Notice, 35 FCC Rcd 6538, 6542 (WCB/IB 2020) (accepting for non-streamlined filing a section 214 application for an inmate calling provider to acquire 100% of the stock of another provider). Because the proposed transaction entails a transfer of control of Pay Tel to employees in the Pay Tel ESOP Trust, which Applicants assert does not intend to change existing management or operations and which does not hold an interest in any other IPCS provider or telecommunications provider, this transaction does not appear, on its face, to raise the same potential competitive and public interest concerns as prior IPCS transactions that involved the consolidation of IPCS assets or reduced the number of providers in the inmate calling services market. The Application is thus eligible for streamlined processing under section 63.03 of the Commission's rules in this case. 47 CFR § 63.03(b)(1)(ii). Nevertheless, at any time, the Commission, acting through the Bureau, may notify the Applicants that the Application is being removed from streamlined processing if the Application requires further analysis to determine whether the proposed transaction is in the public interest. 47 CFR § 63.03(c).

business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.⁷ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

For further information, please contact Dennis Johnson at (202) 418-0809.

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⁷ See 47 CFR § 1.45(c).